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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,086	01/22/2002	John R. Grabski II	15154/04320	3649
24024	7590	08/16/2006	EXAMINER	
CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114			ERB, NATHAN	
			ART UNIT	PAPER NUMBER
			3639	

DATE MAILED: 08/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/054,086	Applicant(s) GRABSKI, JOHN R.	
	Examiner Nathan Erb	Art Unit 3639	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

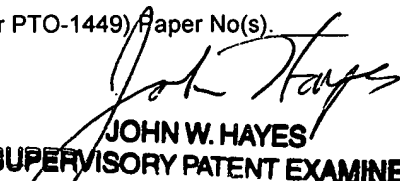
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-25.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
SEE CONTINUATION SHEET.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: _____.


JOHN W. HAYES
SUPERVISORY PATENT EXAMINER

CONTINUATION SHEET:

Regarding Applicant's arguments with respect to claims 1 and 11, Applicant first argues that Examiner lacks proper motivation for combining Anthony et al. with Avery. Applicant argues that Avery merely addresses whether a value-added service somehow adds value to a product or service and not whether one of ordinary skill in the art at the time of Applicant's invention would have been motivated to combine Anthony et al. and Avery in the manner proposed. Applicant suggests that Examiner is actually relying on impermissible hindsight for the motivation to combine. This is not the case, as Applicant's application was not relied upon for the motivation in the rejection, and Avery was relied upon for the motivation. As far as the motivation being appropriate for the combination made in the rejection, the cited section A of Avery discloses more than simply the importance of value-added services to wholesale distributors and their customers, it simultaneously also discloses the more general idea of value-added services being beneficial/desirable to customers, through of course adding value, as is implied by its definition. With Anthony et al. providing the components of claims 1 and 11 dealing with allocating costs of a business to departments and items generally and Avery indicating the desirability for a customer business to purchase items with value-added features, it would be neither an illogical nor a non-motivated step for a business already using the cost-allocation system of Anthony et al. to seek items with value-added features in its purchasing. This is sufficient motivation and results in the combination of Anthony et al. and Avery. Applicant also argues that Ellram does not compensate for what Applicant feels was a deficient motivation in Avery. However, this point is not relevant, since Avery did not have a deficient motivation, as discussed above.

With respect to claims 1 and 11, Applicant also argues that the Anthony et al.-Avery-Ellram combination would not disclose defining "a department for transacting the item if the item is supplied with a value-added feature" and/or determining "the transaction cost of the item in each of the departments transacting the item," including the department for if the item is supplied with a value-added feature. The rejection was not deficient, as Applicant suggests here. To paraphrase the rejection, Anthony et al. discloses departments through which items pass and have functions performed on them. Avery provides the idea that businesses should want to purchase items with value-added features since they add value. If a business using the accounting system of Anthony et al. thus begins purchasing items with value-added features, that would result in "defining a department for transacting the item if the item is supplied with a value-added feature." As Anthony et al.'s accounting system also determines transaction costs of items on a per-department basis, "determining the transaction cost of the item in each of the departments transacting the item, including the department for if the item is supplied with a value-added feature" would also result. Thus, the rejection's combination of references discloses the limitations highlighted by Applicant.

Therefore, Examiner does not find Applicant's arguments with respect to claims 1 and 11 to be persuasive.

Regarding Applicant's arguments with respect to claims 12 and 19, Applicant argues that those claims are patentable over the prior art for reasons analogous to those set forth in Applicant's arguments regarding claims 1 and 11. Therefore, Examiner hereby uses reasoning analogous to his counterarguments regarding claims 1 and 11 above in finding Applicant's arguments with respect to claims 12 and 19 to be not persuasive.

Since claims 1, 11, 12, and 19 are the only independent claims in the application and are not patentable, none of the dependent claims would be patentable either. This includes the only recently-amended claim, claim 23, which was amended merely to correct a minor informality, and that amendment did not affect the applicability of the respective rejection in this case to claim 23.